

Telehealth Professional Liability Insurance

What is telehealth?

Telehealth is the delivery of health education and services using telecommunications and related technologies in coordination with a health care practitioner with the goal of improving a patient's health status. Examples of telehealth technologies include real-time audio video monitoring to virtually connect patients to providers, remote patient monitoring to collect and transmit real-time patient health data, and mobile communication devices for health services and information. Effective implementation of telehealth has the potential to increase access to care, improve patient outcomes, and generate cost savings.^{1, 2}

Determining Liability Insurance Coverage

In general, laws governing medical malpractice and liability are well-established and set at the state level. The ground rules for telehealth malpractice risks, however, are still largely undeveloped. Liability insurance coverage for the practice of telehealth can vary widely by carrier. Such variances include:

- Providing telehealth as a covered service in a provider's liability insurance policy;
- Requiring a supplemental insurance policy specifically to cover telehealth services; or
- Not providing any coverage for telehealth services.

If a liability insurance policy does not contain explicit language detailing coverage for telehealth services, this does not always mean the provider does not have liability insurance coverage for telehealth. Telehealth providers should contact their liability insurance carriers to determine coverage for telehealth services under their existing insurance policy. In order to determine coverage, carriers may assess specific telehealth practices. The provider should inquire about the following matters:

- Whether the carrier provides coverage for telehealth services under the provider's existing policy or if a supplemental policy is needed;
- What specific services are covered under the policy; if there are any specific activities, such as practicing over state lines, that would preclude coverage, and if there are any conditions that must be met to maintain coverage, such as establishing a treatment relationship in-person prior to providing telehealth services;
- What information is needed regarding the provider's engagement in specific telehealth activities, including, physical location of the provider, location of the intended patients, equipment being used, and types of treatments that will be administered via telehealth.

Liability Concerns for Providing Telehealth Services

Telehealth is a form of health care service delivery that is currently not widespread. Some professional liability insurance carriers have raised concerns regarding providers engaging in telehealth services, and, as a result, provide limited or no coverage for telehealth services. There are two recurring concerns that have been identified by provider liability insurance carriers. One concern is providers' ability to adequately assess a patient's underlying conditions and properly diagnose the patient when there is no pre-established physician/patient relationship. Another concern is providers practicing across state lines, as state laws differ with regard to practicing telehealth, resulting in different liability coverage.^{3, 4}

Summary

Liability coverage for telehealth can vary widely depending on the carrier. Providers need to work with their carrier to determine coverage when providing telehealth services and if there are any preclusions to coverage.

¹ MHCC, *Maryland Telemedicine Task Force Final Report*, October 2014. Available at:

http://mhcc.maryland.gov/mhcc/pages/home/workgroups/documents/tlmd/tlmd_ttf_rpt_102014.pdf.

² American Telemedicine Association. *What is Telemedicine*, 2012. Available at: <http://www.americantelemed.org/about-telemedicine/what-is-telemedicine#.VvwupIrJpg>

³ MagMutual. Guidelines for Telemedicine Policies and Procedures. Available at: <http://www.magmutual.com/>

⁴ MagMutual. A brief introduction to telemedicine. Available at: <http://www.magmutual.com/>